



HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ

W.P. No. 4187 of 2003

PETITIONER

Sukul Das, son of Shri Firtu Das, caste Manikpuri, (Panika) aged about 27 years, occupation Acting Kotwar, resident of village - Songuda, Tah. Sakti, Distt. Janjgir Champa (C.G.)

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through : The Secretary, Department of Revenue, Dau Kalyan Singh Bhawan, Mantralaya, Raipur (C.G.)
2. The Board of Revenue, through : Its Secretary, Chhattisgarh at Bilaspur (Chhattisgarh)
3. Sub Divisional Officer, Tahsil - Sakti, Distt. Janjgir - Champa (Chhattisgarh)
4. Tahsildar, Tahsil Sakti, Distt. Janjgir - Champa (Chhattisgarh)
5. Saheb Das, aged about 30 years, son of Shri Kheek Das, resident of Songuda, Tah. Sakti, Distt. Janjgir, - Champa (Chhattisgarh)

Writ Petition under Article 227 of the Constitution of India.

Present: Shri A. N. Bhakta, counsel for the petitioner.
Shri U. N. S. Deo, Govt. Advocate for the State/ respondent No.1 to 4.
Shri Sankalp Jayaswal, counsel for the respondent No.5.

ORAL ORDER
(Passed on 14th August, 2007)

The petitioner has challenged the appointment of respondent No.5 on the post of Kotwar whereas, according to the petitioner, his father was a Kotwar of the village Panchayat Songuda, Tah. Sakti, Distt. Champa-Janjgir and on his resignation, the petitioner & opposite party No.5 both applied for the post of Kotwar. The Gram Panchayat has recommended the case of respondent No.5 for the appointment as Kotwar and the name of the petitioner was not recommended by the Gram Panchayat. On the sole ground, the petitioner has lost in the Courts below. The petitioner has urged before this Court that he has

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to be given preference over others in case of appointment and the recommendation of the Gram Panchayat is only recommendatory in nature. It has been submitted on behalf of the private opposite party No.5 that the preference can only be given if it is found that all applicants having similar qualifications and in the present case the name of the petitioner has not been recommended by the Gram Panchayat, therefore, the petitioner cannot be appointed.

I heard learned counsel for the parties and I found that the case of the petitioner has not been considered on merit at all. Accordingly, the order passed by the Courts below and the order passed by respondent no.4 are set aside with a direction to the authority concerned to consider the case of the petitioner and opposite party no.5 as in accordance with law. With the above observation, the writ petition stands allowed.

Sd/-
Ag. Chief Justice